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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.1706/2006

CORAM: Hon'ble Shri **S.R.Nayak**, Chief Justice &
Hon'ble Shri **Dilip Raosaheb Deshmukh**, J.

Petitioner : Rupau, son of Late Raruha Satnami, aged about 75 years, resident of Village Bhumiya, Police Station Simga, District Raipur.

Versus

Respondents :
(1) Union of India, through the Secretary, Ministry of Home/Labour, New Delhi.
(2) State of Chhattisgarh through the Secretary, Ministry of Home/Labour, D.K.S.Bhawan, Raipur.
(3) National Capital Territory of Delhi, through the Secretary, Ministry of Home/Labour, New Delhi.
(4) The Labour Commissioner, State of Chhattisgarh, Raipur.
(5) The Station House Officer, Police Station Simga, District Raipur.

Shri B.P.Sharma, Counsel for the petitioner.
Shri Bhishma Kinger, Central Govt. Standing Counsel for respondent No.1.
Shri Vinay Harit, Dy. Advocate General for the State.

ORAL ORDER
(Passed on 4.4.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

Notwithstanding the total disapproval recorded by us in our recent judgment dated 13.12.2005 in Mani Shankar Pandey v. Union of India & Others[1] with regard to abuse and misuse of public interest litigations (PILs) by busy-bodies, misguided persons and awarding exemplary costs of Rs.10,000/- in that case, another case, if we may say so, still worse than the one decided by us in the aforementioned case, is filed in the garb of a PIL. According to learned counsel for the petitioner, this PIL is filed not only to

[1] 2006 (1) C.G.L.J. 166

remedy the personal grievance of the petitioner but also espouse the public cause.

2. Although the writ petition runs to typed 10 pages, the facts are very simple and straightforward and that could conveniently be stated in a small paragraph and they are: the daughter-in-law of the petitioner, Sagni Bai by name, went to Delhi (with whom and when she went to Delhi is not forthcoming). She went with her minor female child. She died in Delhi in the month of February 2006. An unnamed person brought the minor daughter of Sagni Bai and handed over her to the petitioner and told the petitioner that Sagni Bai died "on account of accident" which had taken place at a construction site at Delhi.

3. In the entire petition, the details such as who is the employer of Sagni Bai, what kind of work she was doing, when she died, how she died, the place of the accident and other relevant informations are not forthcoming. This is the kind of pleading with regard to Sagni Bai going to Delhi and dying there. Having stated that, the rest of the petition in volumes and quite often repetitions abundance speaks of exploitation of workers by building contractors in New Delhi and particularly those poor villagers of the Chhattisgarh State, who go over there for earning their livelihood.

4. We have read and re-read the writ petition. The source or the basis of the generalized allegations made against the entire body of the building contractors in New Delhi is not at all stated. In other words, the pleading of the petitioner is as vague as it could be and these generalized vague allegations cannot be verified by any rational technique or measure. The petitioner has not chosen to disclose the names of those contractors who violate Labour Laws and other Laws including Interstate Migrant Workmen (Regulation of the Employment and Conditions) Act, 1979. Having perused the very vague pleadings of the petitioner, at the threshold itself, we thought that it is not a fit case where the Court should step in under Article 226 of the

Constitution and we, accordingly, told Shri B.P. Sharma, learned counsel for the petitioner and indicated that we were not inclined to entertain the writ petition, but, Shri B.P. Sharma, learned counsel for the petitioner, went on arguing and repeating the same submissions several times. We repeatedly told Shri B.P.Sharma that the precious time of the Court should not be allowed to be used in the way he used; nevertheless, learned counsel for the petitioner proceeded to repeat and reiterate the same contentions several times consuming considerable time of the Court. We strongly disapprove this. Time has come where the Constitutional Courts, particularly, this Court where roughly 75,000 of cases are pending for decision-making with only eight-Judge strength, should spend the Court-time, thereby meaning public time, judiciously and reasonably, and if any person whether he is litigant or his counsel, abuses the privilege of audience at the peril of others who wait for justice at the doors of the Court for years should be made accountable. This concern is stated by us, in our recent judgment in the case of **Mani Shankar Pandey** (supra[1]). We think it appropriate to extract relevant observations made by us in that case in support of our order in this case. They read:

> "13. Before concluding a word or two about the accountability of the petitioner in moving this Court by way of petition under Article 226 of the Constitution under the garb of PIL. The time of the Court is public time; it is neither the time of the Judges nor the time of the litigant or his counsel; the public time should be spent judiciously and economically; insistence of such rule is absolutely necessary particularly in the context of alarming pendency of cases in Law Courts and other judicial and quasi-judicial for a today. The Court's time should not be allowed to be misused or abused by unscrupulous litigants or busy-bodies in the garb of PILs. That is also responsibility cast on the learned member of the Bar in espousing the cause of the public by way of PILs. Lawyer plays a very crucial and important role in public interest litigation. His duty and responsibility to the Court in a Public interest Litigation case is even greater in comparison to usual cases. The Lawyers' repertoire and forensic skills and craftsmanship are central to a purposeful use of judicial processes as instruments of institutional reforms. An Advocate is an integral part of administration of justice. The legal fraternity and judiciary are the two sides of the same coin. The Court

would not be wrong in expecting that every advocate would conduct himself in responsible manner and assist the Court property in discharge of this legal and constitutional obligations. They do act, plead and advocate the cause of the clients but their duty to Court is much higher than that of serving their clients. It is stated that every advocate is an *amicus curiae*, a friend of the Court; his first loyalty is the Court and not to his client. The Court's time is not meant for the satisfaction of the ego of a judge ho presides over the Court that he knows the whole law correctly and there cannot be a second opinion on the point addressed to the Court, nor to satisfy the counsel himself who appears for a party that he could put forth any plea or point irrespective of its tenability in the legal premise, nor to please a party sitting behind his counsel that his counsel did argue the case on his behalf marvelously and to his satisfaction. Adjudicatory deliberations in Law Court are serious pursuits, and they should receive responsible and constructive co-operation from both the partners of the institution, and both of them shall practice and do everything at their command to save the precious time of the Court without sacrificing justice. Such a course has become imperative necessity in the Constitutional Court where the accumulation of the Cases in alarming as well as long pending. Fruitful management of the Court's time is need of the hour and cannot be achieved without constructive co-operation between the Bar and the Bench.

14. Time has come for the Constitutional Courts not only to nip the unscrupulous and unjustified PILs at the bud but also to make the movers of such PILs accountable in concrete terms. Mere disapproval of such PILs by the Courts by way of observations in the judgment will not help the public justice in the long run. The State spends huge sums of money out of the limited resources to provide, maintain and conduct apparatus of adjudicatory processes. If the Court finds that the adjudicatory process is abused or misused wantonly by a person under the garb of PIL, it is but necessary to make him accountable for his litigative luxury, in order to subserve the public interest. Public interest will never be permitted to suffer in a Public Interest Litigation. That can be achieved by imposing exemplary costs. One cannot have the pleasure of an unjustified PIL at the cost of the public just paying Rs.100/- towards Court fee, a pittance when compared to the actual cost incurred by the State.

15. The Supreme Court in *Janata Dal Vs. H.S.Chowdary*[6] *(supra)* expressed its total displeasure and disgust in wasting the Court's time on account of trumpery proceedings initiated under the garb of PILs in the following words:

"It is depressing to note that on account of such trumpery proceedings initiated before the Courts innumberable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed. Unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matter involving properties worth hundreds of millions of rupees and criminal case in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration of long years, persons suffering form the undue delay in service matters. Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders, etc. etc., - are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers of officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they loss faith in the administration of our judicial system."

16. A person who desires to persist with his view point despite the fact that the point which he canvases before a judge has no legs to stand by the binding decisions of the larger Benches of the Court and in the process wastes the Court's time shall be made to pay the price for the wastage of public time, at least notionally if not fully. Such course is a 'must' not only to curb unjustified and vexatious PILs but also to do justice to the public. The observation of the Supreme Court in *S.P.Anand Vs. H.D.Deve Gowda' (supra)* is apt to be quoted:

> "... It must also be borne in mind that no one has a right to the waiver of the *locus standi* rule and the Court should permit it only when it is satisfied that the carriage of proceedings in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sough to be abused by a person who desires to persist with his point of view almost carrying it to the point of obstinacy by filling series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become state and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person wellversed in law would not be countenanced. Instead, as pointed out earlier he referred to decisions having no bearing on the question like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code etc. we need say no more except to point out that indiscriminate use of this important lever of public interest litigation would blunt the lever itself."

5. Having applied our mind and in the premise of well-established norms and principles governing public interest litigation, we are of the considered opinion that this is not a case which could be treated as a public interest litigation. In that view of the matter, we dismiss the writ petition with exemplary costs quantified at Rs.15,000/- payable to the Chhattisgarh High Court Legal Services Committee within a period of three weeks from today. The Registry shall inform the Court whether the direction is complied with by the petitioner after expiry of three weeks.

6. Before parting with this case, we make it very clear that if late Sagni Bai, the daughter-in-law of the petitioner died in an accident when she was in employment under any contractor, the petitioner or other legal representative of the deceased-woman can work out their

legal remedies in accordance with law. That liberty is reserved to the legal representatives of the deceased late Smt. Sagni Bai.

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge

Anjani